

House Study Bill 94

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON BAUDLER)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act authorizing certified peace officers to issue subpoenas
2 duces tecum.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1669YC 81
5 jm/pj/5

PAG LIN

1 1 Section 1. NEW SECTION. 804.32 PEACE OFFICER ISSUANCE OF
1 2 SUBPOENA DUCES TECUM.
1 3 1. A certified peace officer, with the approval of the
1 4 officer's chief law enforcement officer or the chief law
1 5 enforcement officer's designee, may, in any county of the
1 6 state, issue a subpoena duces tecum and require the production
1 7 of any records of a telephone company, a wireless service
1 8 provider, a paging company, subscribers of private computer
1 9 networks including internet service providers or computer
1 10 bulletin board systems, an electric utility, a gas company, a
1 11 water utility, a chemical supplier, a hotel or motel, a pawn
1 12 shop, an airline, a bus, taxi, or other entity engaged in the
1 13 business of transporting people, a freight company, a self=
1 14 service storage facility, a warehousing company, or a package
1 15 delivery company or other entity engaged in the business of
1 16 transport, or of any customer bank account or safe deposit box
1 17 numbers maintained by a financial institution.
1 18 2. A subpoena duces tecum may only be issued pursuant to
1 19 this section if the records being subpoenaed are relevant to
1 20 an ongoing law enforcement investigation.
1 21 3. A person who fails or refuses to produce the requested
1 22 records pursuant to a subpoena duces tecum issued pursuant to
1 23 this section shall be punished by contempt proceedings in
1 24 district court.
1 25 4. The person directed to produce the records shall be
1 26 paid reasonable expenses incurred in producing the records.
1 27 5. The subpoena duces tecum shall state that the person to
1 28 whom the subpoena is directed shall not disclose the existence
1 29 of the subpoena or the fact that the records have been
1 30 produced, unless disclosure is necessary to produce the
1 31 records or disclosure is ordered by the court.

1 32 EXPLANATION

1 33 This bill relates to a certified peace officer issuing a
1 34 subpoena duces tecum.
1 35 Under the bill, a certified peace officer may issue a
2 1 subpoena duces tecum requesting records from a business in an
2 2 ongoing law enforcement investigation. The bill permits the
2 3 person required to produce the requested records to be paid
2 4 reasonable expenses incurred in producing such records. The
2 5 bill also requires the person receiving the subpoena to not
2 6 disclose the existence of the subpoena unless disclosure is
2 7 necessary to produce the records, or disclosure is required by
2 8 court order. A person who fails to produce the records is
2 9 subject to contempt proceedings.
2 10 A subpoena duces tecum is a command to a witness who has
2 11 control over records that are relevant to a case to produce
2 12 such records.
2 13 LSB 1669YC 81
2 14 jm:nh/pj/5